REMARKS

The specification has been amended to delete the phrase "signals transmitted over a network representing computer readable code".

Request for Examiner Interview.

Should the Examiner be of the opinion that this Amendment does not place the application in a condition for allowance, Applicant hereby requests an Examiner Interview prior to the issuance of the next communication from the USPTO to expedite prosecution.

The nonstatutory obviousness-type double patenting rejection of Claims 1-21 over Claims 1-18 of U.S. Pat. No. 7,287,281 has been obviated.

The Examiner states:

> A timely filed terminal disclaimer … would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. (Office Action, page 3.)

To expedite prosecution, co-filed herewith is a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent (1 page) and a Statement Under 37 CFR 3.73(b) (1 page). The Terminal Disclaimer obviates the nonstatutory obviousness-type double patenting rejection of Claims 1-21 over claims 1-18 of U.S. Pat. No. 7,287,281.

For at least the above reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

The nonstatutory obviousness-type double patenting rejection of Claims 1-21 over Claims 1, 4-6, 10-21, 24-26, 28-38 of U.S. Application No. 10/360,341 has been obviated by the previously filed Terminal Disclaimer.

Applicant notes that U.S. Application No. 10/360,341 is now U.S. Patent No. 7,228,563, issued June 5, 2007, for which

an associated Terminal Disclaimer has already been filed. This is acknowledged by the Examiner at page 2 of the Office Action:

> Applicant has filed a Terminal Disclaimer to obviate the double patenting rejection over U.S. Pat. No. 7,228,563.

The previously filed Terminal Disclaimer obviates the nonstatutory obviousness-type double patenting rejection of Claims 1-21 over Claims 1, 4-6, 10-21, 24-26, 28-38 of U.S. Application No. 10/360,341 (U.S. Patent No. 7,228,563).

For at least the above reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 1-21 are novel over Cross et al. (6,910,142).

Regarding Claim 1, the Examiner states:

> Cross teaches a method comprising: stalling a call to an operating system function originating from a call module; and **determining whether said call module is in a driver area of a kernel address space of a memory** (see Figs.2-5 and col.3, line 32-col.6, line 51). (Office Action, page 5, emphasis added.)

The Examiner's statement is respectfully traversed.

As set forth in MPEP § 2131, Eighth Edition, Rev. 6, Sept. 2007, at page 2100-67:

> TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

As demonstrated below, the Examiner has failed to callout where Cross et al. teaches every element of Claims 1-21. Accordingly, Claims 1-21 are allowable over Cross et al.

Initially, Applicant notes that the Examiner has simply block cited Cross et al. as "see Figs.2-5 and col.3, line 32-col.6, line 51" and has provided no guidance as to the

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Examiner's interpretation of the teaching of Cross et al. as related to Applicant's Claim 1. Accordingly, Applicant is unclear as to the basis of the Examiner's argument and requests clarification.

Applicant has searched Cross et al. for the term "kernel" but is unable to locate any mention of the term "kernel". Further, at col.3, line 32-col.6, line 51, as block cited by the Examiner, Applicant has only located two instances of the term "driver". These instances are set forth below:

> At step 340, the I/O **driver**(s) (located on core I/O card 140) for the slot 150 associated with the doorbell 155 is (are) quiesced. (Col. 5, lines 39-41, emphasis added.)

> At step 535, OS 103 shuts down the I/O **driver** for the relevant slot 150, and at step 540, PDC 103 powers down the slot. (Col. 6, lines 38-40, emphasis added.)

Accordingly, Cross et al. teaches that I/O drivers are shut down. Applicant respectfully submits the Examiner has failed to callout how shutting down I/O drivers relates in any manner to "a driver area of a kernel address space" as asserted by the Examiner.

For at least the above reasons, Cross et al. does not teach or suggest:

> A method comprising:
> stalling a call to an operating system function **originating from a call module**; and
> determining whether **said call module is in a driver area of a kernel address space** of a memory,

as recited in Claim 1, emphasis added. Accordingly, Claim 1 is allowable over Cross et al. Claims 2-17, which depend from Claim 1, are allowable for at least the same reasons as Claim 1. Claim 21 is allowable for reasons similar to Claim 1.

For similar reasons, Cross et al. does not teach or suggest:

> A method comprising:
> hooking driver load and unload functions;
> obtaining loaded driver information;
> determining **a driver area in a kernel address space of a memory**; and
> determining whether a driver has been loaded into or unloaded from **said kernel address space**, wherein upon a determination that said driver has been loaded into or unloaded from said **kernel address space**, said method further comprising **updating said driver area**,

as recited in Claim 18, emphasis added. Accordingly, Claim 18 is allowable over Cross et al. Claims 19-20, which depend from Claim 18, are allowable for at least the same reasons as Claim 18.

For the above reasons, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Conclusion.

Claims 1-21 are pending in the application. For the foregoing reasons, Applicant respectfully requests allowance of all pending claims. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 21, 2008.
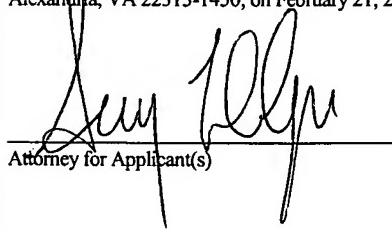
_____   February 21, 2008
Attorney for Applicant(s)   Date of Signature

Respectfully submitted,
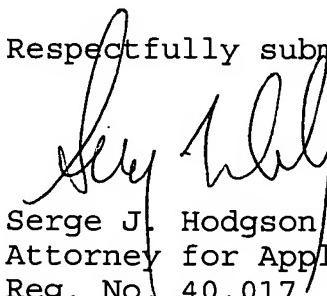
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